

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 16, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 16, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing, Vice-Chair; Michael Gisick; Bill Johnson (In @ 1:41 start of Item 5); Bob Aldrich; Morris K. Dunlap; M.S. Mitchell; Don Anderson; Bud Hentzen and Ronald Marnell. John W. McKay Jr.; Denise Sherman; Hoyt Hillman and Elizabeth Bishop were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

1. Approval of January 19, 2006, and February 2, 2006 meeting minutes.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (9-0).

Approval of February 2, 2006, meeting minutes.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (9-0).

2. Case No.: DR2005-32 – Request Proposed Amendments to the Unified Zoning Code Pertaining to manufactured Home Parks and Setting a Public Hearing for March 16, 2006

Background: In 2002, the cities of Wichita and Haysville and Sedgwick County adopted the South Wichita-Haysville Area Plan. This plan addressed numerous community redevelopment and revitalization issues for several low-moderate income neighborhoods located in south Wichita and Haysville and in nearby unincorporated portions of Sedgwick County. The plan contained 59 recommended strategies to achieve positive long-term change, including recommendations to revise regulations for manufactured home parks.

In late 2005, planning staff reviewed the recommendations of the plan, and drafted proposed revisions to manufactured home park regulations. The proposed revisions were presented to the Advance Plans Committee on November 17, 2005. The Advance Plans Committee directed staff to present the proposed revisions manufactured home park operators for feedback. Staff met with manufactured home park operators on December 16, 2005, and their feedback has been incorporated into the attached "Proposed Changes to Manufactured Home Park Regulations."

In February and March, each District Advisory Board will review the proposed changes and will make recommendations regarding their adoption. Additionally, Kansas statutes require the MAPC to hold a public hearing to review the proposed regulation changes and make a recommendation to the City Council regarding their adoption. Planning staff recommends that the public hearing be set for March 16, 2006.

Recommended Action: Schedule a public hearing on March 16, 2006 pursuant to State Statute to receive formal public comment and consider amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to manufactured home park regulations.

MOTION: Schedule a public hearing on March 16, 2006, pursuant to state statute to receive formal public comment, and consider amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to manufactured home park regulations.

MITCHELL moved, **DUNLAP** seconded the motion, and it carried (9-0).

❖ **SUBDIVISION ITEMS**

3. Consideration of Subdivision Committee recommendations from the meeting of February 9, 2006.

3-1. SUB 2005-82: Final Plat -- CONQUEST NORTH SECOND ADDITION, located west of Hillside and on the north side of 27th Street North.

NOTE: This is a replat of a portion of the Conquest North Addition. The Conquest North Community Unit Plan (DP-24) was also approved for this site.

STAFF COMMENTS:

- A. City water services are available. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. **City of Wichita Water and Sewer Department** advises that since this area is not in a sewer main benefit district, any extension of laterals will require a petition for main or in the alternative, fees in lieu of assessment for main.
- B. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved subject to the platting of drainage easements, and submittal of a revised grading plan.**
- C. The plat proposes complete access control along the 27th St. North frontage with two street openings. **Access controls are approved.**
- D. In accordance with the Subdivision Regulations, the private street shall be platted as a Reserve.
- E. A covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities. The plat's text shall reference the platting of the reserve for private street purposes.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. Because of the landlocked nature of Reserves A and B being platted, a means of access for maintenance shall be provided.
- I. The applicant shall request a CUP adjustment.
- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for various lots in Block 1. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **This modification has been approved.**
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat shall denote reference to a quarter section.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.

- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (9-0).

-
- 3-2. SUB 2006-09: One-Step Final Plat -- LEGACY PARK WILSON ESTATES THIRD ADDITION,** located south of 21st Street North and west of Webb Road.

NOTE: This is a replat of a portion of Lot 5, Block 1, Legacy Park Wilson Estates Addition. This site is also contained within Parcel 10 of the Wilson Estates Residential CUP (DP-201).

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water or relocation of existing lines to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved subject to revisions to the grading plan.
- D. A Block shall be designated on the face of the plat as referenced in the plat's text.
- E. The Applicant shall guarantee the paving of the proposed streets.
- F. The plat needs reference to section, township and range.
- G. The width of the Utility Easement on Film 2058, Page 927 must be shown with sufficient ties to locate it definitely with respect to the subdivision.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. A CUP adjustment may be needed so that the perimeter of the proposed residential block matches the perimeters of the CUP parcel boundaries.
- K. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- L. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- N. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- O. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- P. "Lots, Block, Reserves and Street" shall be referenced in the plat's text.

- Q. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The term "water features" in the plat's text should be clarified. **The applicant will replace this term with "monuments"**.
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- BB. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- CC. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (9-0).

- 3-3. **SUB 2006-04: One-Step Final Plat -- NORTH SANITARY SEWER ADDITION**, located west of Meridian and south of 53rd Street North.

NOTE: This is an unplatted site located within the City. A Conditional Use (CON 2006-01) for a Major Utility for a sanitary sewer lift station has been requested.

STAFF COMMENTS:

- A. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering recommends a drainage plan be submitted that addresses the County's concerns in Item B.**
- B. **Sedgwick County Public Works** notes significant drainage that crosses near this property. A drawing needs to be provided showing connection between this project and drainage. **A profile is needed.**
- C. The off-site access easement providing access to this site shall be provided.
- D. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- E. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County

Engineer, and unobstructed to allow for the conveyance of stormwater.

- F. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- G. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- H. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- I. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- J. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- K. Perimeter closure computations shall be submitted with the final plat tracing.
- L. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- M. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- N. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (9-0).

❖ PUBLIC HEARINGS – VACATION ITEMS

4-1. VAC2006-01: Request to Vacate a Portion of a Platted Easement.

OWNER/APPLICANT: Via Christi Regional Medical Center

AGENT: MKEC Engineering Consultants Inc., c/o Greg Allison

LEGAL DESCRIPTION: See Legal: Generally described as the west portion of the platted water line and storm sewer easement as recorded on Lot 1, Block 1, the Via Christi Regional Medical Center, Inc., Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Murdock Avenue and between Topeka Avenue and Emporia Circle (WCC #VI)

REASON FOR REQUEST: Additional space for constructing of building addition

CURRENT ZONING: Subject property and adjacent eastern properties are zoned "GO" General Office. Properties south of the site are zoned "LI" Limited Industrial. Properties west of the site are zoned "B" Multi-family Residential

The applicant is requesting consideration for the vacation of the western portion of the platted water line and storm water easement located on as shown on the applicant's site plan. The applicant proposes building over portions of the platted easement. Pert the GIS map and the applicant's site plan there is a water line in the easement. There is a storm water line in the easement that goes into Topeka Avenue. There are no manholes or sewer lines in the easement. Westar has utilities in the easement. The Via Christi Regional Medical Center, Inc., Addition was recorded with the Register of Deeds April 12, 2000.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted water line and storm sewer easement as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time January 26, 2006, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted water line and storm sewer easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted water line and storm sewer easement described in the petition should be approved with conditions:
- (1) Vacate only that portion of the platted water line and storm sewer easement as described in the legal description, as approved by City Water & Sewer/Public Works. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee for the relocation of the water line and storm sewer line.
 - (3) All improvements shall be according to City Standards.
 - (4) Retain the easement until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City/franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the platted water line and storm sewer easement as described in the legal description, as approved by City Water & Sewer/Public Works. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee for the relocation of the water line and storm sewer line.
- (3) All improvements shall be according to City Standards.
- (4) Retain the easement until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City/franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

WARNER moved, **DUNLAP** seconded the motion, and it carried (9-0).

4-2. VAC2006-02: Request to Vacate Platted Drainage and Utility Easement.

APPLICANTS/OWNERS: David Calvin

AGENT: Poe & Associates

LEGAL DESCRIPTION: Generally described as the platted 20-foot drainage and utility easement, as recorded on Lot 1, Block 1, Range Industrial Addition, Wichita, Sedgwick County, Kansas

<u>LOCATION:</u>	Generally located southeast of the US Highway-54 – 151 st Street West intersection (WWC #V)
<u>REASON FOR REQUEST:</u>	Easement not needed
<u>CURRENT ZONING:</u>	Site and abutting northern, southern and eastern properties are zoned "GI" General Industrial. Property west of the site (across 151 st Street West) is zoned "SF-20" Single-family Residential.

The applicant is requesting consideration to vacate the platted 20-foot drainage and utility easement. There are no franchised utilities, water or sewer lines or manholes in the platted easement. Storm Water will need to confirm the drainage function of the easement; the applicant has stated in the Subdivision Committee meeting that they had turn in a drainage plan as required for a building permit. The Range Industrial Addition was recorded with the Register of Deeds February 18, 1999.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility and drainage easement as described in the attached legal, with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time January 26, 2006, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described platted utility and drainage easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted drainage easement described in the petition should be approved with conditions:

- (1) If needed, provide the Storm Water Engineer with a drainage study to determine the impact of the proposed vacation on abutting and adjacent properties; confirm that the applicant has turned in a drainage plan for review and approval to obtain a building permit. The drainage study will also determine if retention or replacement easement(s) are required. The utility and drainage easement will be retained until the Storm Water Engineer and Public Works determine if any or all of the utility and drainage easement can be vacated.
- (2) Provide Staff with any required replacement easements for utilities and/or drainage. Public Works/ Storm Water must approve dedications. Approved dedications, with original signatures, will be provided to planning to be recorded with the Register of Deeds with the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (4) All improvements shall be according to City Standards.
- (5) Dedicate 10-foot of right-of-way along the site's 151st Street West frontage.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

1. If needed, provide the Storm Water Engineer with a drainage study to determine the impact of the proposed vacation on abutting and adjacent properties; confirm that the applicant has turned in a drainage plan for review and approval to obtain a building permit. The drainage study will also determine if retention or replacement easement(s) are required. The utility and drainage easement will be retained until the Storm Water Engineer and Public Works determine if any or all of the utility and drainage easement can be vacated.
2. Provide Staff with any required replacement easements for utilities and/or drainage. Public Works/ Storm Water must approve dedications. Approved dedications, with original signatures, will be provided to planning to be recorded with the Register of Deeds with the Vacation Order.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.

4. All improvements shall be according to City Standards.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendations.

WARNER moved, **DUNLAP** seconded the motion, and it carried (9-0).

4-3. VAC2006-03: Request to Vacate Multiple Platted Easements.

OWNER/APPLICANT: Dillon Real Estate Co., Inc.

AGENT: Pickering Inc., c/o Cara Martin, PE

LEGAL DESCRIPTION: See legal: Generally described as the platted easements as recorded on Lots 4 & 5, Block 1, Rockwood Center 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southeast of the Rock Road – Central Avenue intersection (WCC #2)

REASON FOR REQUEST: Proposed eastward expansion of existing building

CURRENT ZONING: The subject property, abutting northern and adjacent eastern properties are zoned “LC” Limited Commercial. Property south of the site is zoned “GO” General Office. Property west of the site is zoned “B” Multi-family. Property

The applicant proposes to vacate portions of platted 10-foot water easements and portions of platted 20-foot utility easements, as shown on the applicant's exhibit. The applicant's exhibit also shows a proposed vacation of a KG&E affidavit. According to the GIS utilities' map there are manholes, water and sewer lines in most of the easements. The applicant proposes to replace the portion of the vacated easements with easements dedicated by separate instrument. There is a platted 70-foot building setback line that appears to run parallel to one of the proposed vacated 10-foot water easements, which will remain in effect. The site is part of CUP DP-41. The Rockwood Center 2nd Addition was recorded with the Register of Deeds September 8, 2004.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the multiple platted easements with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time January 26, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above described multiple platted easements and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted easements and reserves described in the petition should be approved with conditions:
- (1) Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a guarantee for the relocation of the water and sewer line and manholes.
 - (3) Retain the easements until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
 - (4) All improvements shall be according to City Standards.

- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a guarantee for the relocation of the water and sewer line and manholes.
3. Retain the easements until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
4. All improvements shall be according to City Standards.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendations.

WARNER moved, **DUNLAP** seconded the motion, and it carried (9-0).

❖ **PUBLIC HEARINGS**

5. **Case No.: ZON2005-57** – Midwest Conference Evangelical Covenant Church (applicant), Legend Development, c/o Tim Buchanan (applicant), MKEC Engineering c/o Greg Allison (agent) Request Zone change from "SF-5" Single-family Residential to "NO" Neighborhood Office (*amended application*) on property described as;

Lot 1, Block 1 together with Reserve N, Remington Place, an Addition to Wichita, Sedgwick County, Kansas. Generally located South of 21st Street North and west of Cranbrook.

MAPC Deferred January 19, 2006

Please see the attached letter from the agent for the applicant. The applicant originally requested a zone change from "SF-5" Single-family Residential to "GO" General Office with a Protective Overlay. The applicant now requests a zone change to "NO" Neighborhood Office with no Protective Overlay. Under NO zoning, an assisted living use would require a Conditional Use. Staff recommends approval of this amended request, based on the

WARNER Before we start this hearing, I need to say that I have been contacted on this item since it was deferred and it will not affect my decision one way or the other.

MITCHELL I want to make the same declaration.

DUNLAP I want to make the same declaration, as well.

MCNEELY At the last MAPC meeting you instructed the applicant to meet with opposed neighbors. They have done that and I believe we are at a consensus today. The applicant and the neighbors have met several times since the hearing today. In your packet today there is a Protective Overlay proposed by the applicant and the neighbors are in agreement. Staff recommends approval.

There is a letter in your packet today from Mr. Walker, one of the opposed neighbors indicating his support for the proposed Protective Overlay also the letter indicates his intention to withdraw his protest petition of this zone change. There are also 14 other protest withdrawals that we have received at this point and time. We were upwards of 50 protests with this case at one time and many of those were outside of the 200-foot protest area so they would not have affected the governing bodies vote anyways.

TIM BUCHANAN, Legend Development, 7309 E. 21st Ste 100, Wichita, KS 67206,
Co-Applicant and Brent Thompson We did have a meeting with the Homeowners and after the meeting there were people who did want to rescind their protest petitions. We went to the DAB meeting and I changed the site plan and we changed the zoning application to "NO" Neighborhood Office to include any use for senior housing and you will see in the Protective Overlay just about every other use except for lower rise office buildings. We had some more comments from the homeowners and I went back and amended the site plan again, and the DAB felt like we were really close to an agreement and asked us to defer the agenda item and meet with the neighbors again. I did meet personally with Mr. Walker and his wife and went over the Protective Overlay and the

proposed landscaping we will be doing. The protest petitions that have been returned or rescinded are from the parties that were here at the last MAPC hearing.

JIM WALKER 2026 Red Oaks, Wichita KS 67206 On Tuesday I sent out a letter to people that I knew had submitted protest petitions and let them know I withdrew my protest petition because they are going down to "NO" Neighborhood Office and a Protective Overlay that will eliminate several uses, and they have worked with us. However when Mr. Buchanan and I spoke Monday it was his thought that he would seek a deferment of the consideration so as to give additional time for the adjoining neighbors and other protestors to consider the issue of withdraw. He told me either last night or today that he said the notion of deferment was something that would probably not be well received as he maybe had predicted. My letter stated that there would be a deferral and people could have relied upon my statement of such in my letter I sent on Tuesday. This case will be going back to the DAB.

BOB PINKSTAFF, 10208 E. Shadybrook, Wichita, KS 67206 I am favor of this now and Mr. Walker is the most affective neighbor to this zone change because his property is close to this proposal. Since we don't have much of a show of people today I just want to state that I am withdrawing my protest petition.

BUCHANAN We are going back to the DAB on March 6th which will be a public forum in advance of the City Council vote, so there will be another opportunity and the protest petition window is still open for two weeks following this meeting for new petitions so I think there will be adequate opportunity for additional input.

DUNLAP If I understand now you are not going to do assisted living?

BUCHANAN Correct.

MOTION: Approve the revised zoning "NO" Neighborhood Office with the Protective Overlay and the other conditions that have been agreed upon by the applicant.

MITCHELL moved, **ALDRICH** seconded the motion.

DUNLAP I don't live in the neighborhood and Mr. Walker does, but having had some very personal connection with Mr. Buchanan's previous developments I think you have made a mistake. I think you would find that the assisted living center would have been a much more amenable and protect property value better than something that might go in there under "NO".

ITEM 6

ITEM 7

ITEM 8

DOWNING I have some serious concerns about these three projects, not because of the projects themselves but simply because of their location. That location is that they are too close to McConnell Air Force Base (MAFB). We have just completed going through a process of base closings in which McConnell was not affected, but that is not the last round of base closings that we will have. We will have more. It behooves us to protect the area around McConnell to the best of our ability so that, when this next round comes, we are again in a good position to keep McConnell open. There is a Joint Land Use Study (JLUS) that has been conducted, and the recommendations that evolved as a result of the study have not been acted on yet but the City of Wichita, the City of Derby, or Sedgwick County.

The study does recommend that we use the maximum operational noise contours as a guide for our approving or not approving or recommending changes to projects. The reason for that is to maintain the greatest flexibility possible for McConnell Air Force Base. The study also recommends that the type of projects that are being recommended to be strongly discouraged in the noise level of 70-75 decibels, which the maximum operational contour lines show these developments to be in. Therefore I think we need to consider the JLUS recommendations.

So, I would like to see us table these projects and other projects that fit into that same noise level category until such time as these recommendations by the JLUS be either adopted or implemented by the various governmental entities.

PLANNING COMMISSIONERS HAD DISCUSSION AND DIALOGUE ABOUT JLUS AND MFAB.

SCHLEGEL Would you want us to present where things stand on the Joint Land Use Study? There has been some progress made. There is a implementation committee that is reviewing the eight recommendations that came out of the JLUS, and they are trying to decide which, if any, of those recommendations that the committee would recommend to those three governing bodies to adopt and put into regulations. I would ask that you allow us to have some time to prepare a presentation.

WARNER I think that would be fine.

RUSS EWY, BAUGHMAN COMPANY, 315 ELLIS, WICHITA, KS It sounds like there is a strong push towards deferring. My question, as is usual in these situations, is to what end? I know that this board has not been at the staff meetings, and that I, as well as planning staff, has had, or the number of times we have gone out and spoken to the Derby Planning Commission about this issue. We spoke last week with the JLUS implementation committee, and this (referring to these three cases) was used as a trial run, or a case study I believe it was presented as.

I would like to point out, in working with staff in not only the JLUS, but the Oaklawn Neighborhood Plan, a few things were brought out. And the fact of the matter is that a 177-lot subdivision is already approved for this property or for the bulk of this ownership. We felt going in for these three cases, basically tying up the remainder of these properties for other uses of multi-family and apartment complex in the northwest corner, general commercial in kind of the separated site in the southeast corner of the property, and a very

standard 16-17 acre CUP at the intersection corner, that we were just simply wrapping up this project. The site is already under engineering design to extend water and sewer to this location.

I would say, as a residential subdivision, we are fairly far down the path. Again, in making these applications, we feel that these three applications, if anything, are closer to the intent of the JLUS as far as the most offensive type of use that would be the single-family residential. The property is not currently under a noise contour zone. We have gone over and over the fact that we would like to plan ahead as best we can for the maximum mission. The maximum mission does not preclude this type of development. The base is over a mile away.

SCHLEGEL We want to make a presentation to you on where things stand on the JLUS, and give you all the recommendations and show you the contour lines in relationship to the site, and let you decide for yourself.

WARNER If these three items were deferred, it wouldn't hurt to have a two-week deferment or whatever, and would it also allow you to prepare yourself in maybe a different approach on your presentation and for you to know what you are dealing with?

EWY I would be able to field those types of discussions.

DOWNING Maybe you know or maybe you don't know that when complaints are filed with MAFB because of noise or because of some sort of damage that is done to a residence or a building that they think was caused by vibration, noise or whatever, that information is collected a McConnell and that information is submitted as a negative when you have a base closing.

EWY I do appreciate that, and the owner does understand this as well. It does him no good to have the base closed as a homebuilder. The only thing that I was trying to get on the record today, for your consideration, was that the people who are going to be lodging those concerns that you speak of, most likely will not be the owner of a one lot general commercial property. We felt that what is before you today, the non-single family developments, really are not prone to the concerns that the JLUS committee is looking at. But, to answer your question, I would say a couple weeks to discuss this we would consider and do.

MARNELL Russ, if this is deferred for a couple of weeks, when you come back will you also be prepared to discuss any noise medication and other construction techniques that might be used in these projects and incorporated to reduce the affect?

EWY Absolutely. I was not the expert last week. We did talk about the impact that it would have on cost per unit. We have done similar residential developments near Mid-Continent that required in their restrictive covenants certain noise medication standards be applied.

ALDRICH What is going to have a more economic impact, building around the perimeter of McConnell or losing McConnell? I think we need to think down the road.

MITCHELL John, wasn't this one of the things that was in the study that was reviewed by the Advance Plans Committee last year sometime, some recommendations about construction techniques?

SCHLEGEL Yes, there was a noise mediation recommendation in there. There are construction techniques that will do that: additional installation in the attic, there are ways to construct air conditioning ducts--If you put a little curve in it, it will reduce the noise that is picked up and carried through the air conditioning ducts, triple pane windows. That will add to the construction cost, and it was reported that it would increase cost by about 10%.

The implementation committee has not made any recommendations yet. They are reviewing all of those eight recommendations, they are studying them and they are trying to consider which ones they would pass on to the governing bodies for adoption. They are scheduled to meet at the base next month, and one of their recommendations has to do with measures that need to be put in place to regulate land use around the base in order to protect it from terrorism.

MITCHELL If construction or noise mediation practices would be the appropriate things, what would it take to implement them?

SCHLEGEL That would be an amendment to the Building Codes.

DOWNING I am not advocating that we kill these three projects. I am simply suggesting that we defer them until the three governing bodies have a chance to decide which of these recommendations in the JLUS they want implemented.

MARNELL Some of these committees can go on forever, and some of them have a vested interest in not having fast decisions. I think we need to have all the information and recommendations, and decide what restrictions we want to put on the zoning for these parcels.

JOHNSON Is there any way that we could have the City of Wichita, Sedgwick County, and the City of Derby respond to what the concerns are?

SCHLEGEL You mean concerns about these three zoning request?

JOHNSON Or how they are going to deal with MAFB.

SCHLEGEL We are working on that. There is a group that has been appointed by those three jurisdictions to work on reviewing the recommendations of JLUS and determining which of those they think the three governing bodies need to adopt.

JOHNSON Should we defer 30 days, 90 days?

ANDERSON I am interested in the possible occurrences at McConnell and what might happen, and the JLUS. All the discussion so far has been hypothetical, about something that might happen. I think we ought to approve the request, as the staff has recommended to us, on these three cases.

WARNER Can we take these three items as if we were at the beginning of this meeting, under one motion, one way or the other?

JOE LANG You can on deferrals, but you cannot do that on approvals.

6. **Case No.: ZON2005-60** JRD, LLC, c/o Jay Russell (owner/applicant) / Baughman Company, c/o Russ Ewy (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential to "MF-29" Multi-family Residential on property described as;

That part of the E1/2 of said SW1/4 described as follows: Beginning at the NW corner of the E1/2 of said SW1/4; thence S 89 degrees 17'18" E along the north line of the E1/2 of said SW1/4, 785.06 feet; thence S 00 degrees 00'06"E, 198.63 feet; thence S 45 degrees 18'16"W, 140.66 feet; thence S 89 degrees 23'22"E, 242.33 feet; thence S 68 degrees 41'23"W, 302.36 feet; thence S 89 degrees 59'54" W, 161.00 feet to a point on the west line of the E1/2 of said SW1/4; thence N 00 degrees 00'06"W along the west line of the E1/2 of said SW1/4, 414.62 feet to the point of beginning, all being subject to road rights of way of record. Generally located East of Clifton, 1/2 mile north of 55th Street South.

BACKGROUND: The applicant is seeking "MF-29" Multi-family Residential zoning for an unplatted tract containing approximately 6.20 acres located about one-half mile north of 55th Street South and east of South Clifton Avenue. The property is currently used for crop production.

Property to the north is currently zoned "LI" Limited Industrial. It is currently vacant, but owned by USD 260 (Derby Public Schools) and is located adjacent to Oaklawn Elementary. The property to the west, across Clifton Avenue, is zoned "SF-20" Single-family Residential and occupied by Pinaire Mobile Home Park, which is allowed by way of conditional use permit (CU-96). Immediately north of Pinaire is Oaklawn Subdivision, which is zoned "SF-5" Single-family.

The subject property is part of a larger overall development project. The applicant also owns the adjacent property to the south and east, for which a preliminary plat (Clifton Heights Addition, SUB2005-00098) has already been approved for a single-family development. An annexation request is currently being processed for that property, which would be zoned "SF-5" Single-family upon approval of the annexation. Also, the applicant has submitted an application for a zone change (ZON2005-00061) to "LC" Limited Commercial with a community unit plan (DP-294 Clifton Heights Commercial CUP, CUP2005-00075) and a zone change (ZON2005-00059) to "GC" General Commercial on two tracts adjacent to the single-family development. In addition, the applicant also owns several tracts on the opposite side of Clifton Avenue.

As part of the platting process, access controls and other normal urban service commitments will be obtained. Screening of multi-family trash receptacles is required when residential zoning or a public street is located within 150 feet of the receptacle. Dumpsters must be located a minimum of 20 feet from any property zoned "TF-3" or more restrictive. Compatibility side and rear setbacks between 15 and 25 feet are required when a multi-family development is located within 500 feet of property zoned TF-3 or more restrictive. Compatibility height standards restrict building height to 35 feet adjacent to property zoned "TF-3" or more restrictive, except the building may increase one foot in height for every three feet of setback greater than 50 feet.

The *Comprehensive Plan* and the *Oaklawn/Sunview Neighborhood Revitalization Plan* recommend industrial and warehousing types of uses for the subject property. These recommendations were based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB. According to the McConnell AFB Joint Land Use Study (JLUS), completed in 2005, McConnell's mission changed in 2002. This change in mission resulted in a reduction of the "Mission Area." Nonetheless, the JLUS recommends preservation of the "Maximum Mission Area" through the next two to three years. Although the implementation of the JLUS recommendations has not yet been approved, the governing bodies of Wichita, Sedgwick County and Derby have formed a committee to determine which of the JLUS recommendations to implement.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "LI"	Vacant Institutional
SOUTH: "SF-20"	Agricultural
EAST: "SF-20"	Agricultural
WEST: "SF-20"	Manufactured Home Park

PUBLIC SERVICES: Clifton Avenue is a two-lane collector street with a traffic count of approximately 3,100 vehicles per day. It has a 125-foot right-of-way, which includes substantial drainage ditches. A 24-inch sanitary sewer line is located in the Clifton Avenue right-of-way, as is a 12-inch water line. These utilities will need to be extended to the subject property.

CONFORMANCE TO PLANS/POLICIES: According to the *Unified Zoning Code*, MF-29 zoning is a high-density, multi-family residential district that "...is intended for application within the City of Wichita." The *Comprehensive Plan's* residential location guidelines state that: high density uses should be located within walking distance of schools; they should be directly accessible to arterial or collector streets and these uses should be sited where they will not overload or create congestion in existing or planned facilities. The proposal generally conforms to these residential Locational guidelines. However, the proposal is not consistent with the following adopted plan elements. The *Comprehensive Plan's* generalized recommended land use map shows this site to be appropriate for "Employment/Industry." *Comprehensive Plan* Strategy V.D2 states that we are to "prevent encroachment of incompatible development around airports" by minimizing high concentrations of people in takeoff/landing zones, utilizing noise reduction techniques and preventing hazards to air traffic. Furthermore, the *Oaklawn/Sunview Neighborhood Revitalization Plan*

designates the subject property as appropriate for "warehousing and light manufacturing" and "limited to activities that place very little demand for water and sewer services."

RECOMMENDATION: There are several factors to consider in this recommendation. First is the fact that the land use recommendations in the *Comprehensive Plan* and the *Oaklawn/Sunview Neighborhood Revitalization Plan* are based upon the 1994 AICUZ, rather than the newer 2004 AICUZ study. The new mission area of McConnell AFB is greatly reduced from the previous mission area, upon which the referenced recommendations are based. Second, the JLUS recommendations have not been adopted to date, leaving no mechanism whereby to require compliance. Finally, given the preliminary plat for Clifton Heights Addition has been approved and an annexation request has been made, the multi-family use could serve to buffer the single-family uses of the Clifton Heights Addition from the "LI" Limited Industrial zoning to the north and the manufactured home park across Clifton Avenue to the west.

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year. It is recommended at the time of platting, the applicant shall guarantee improvement of a third lane on Clifton Avenue, plus any other required improvements.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the north is currently zoned "LI" Limited Industrial, but is owned by USD 260 (Derby Public Schools). The remaining nearby property is zoned "SF-20" or "SF-5" residential, and includes single-family residential and manufactured home uses. If the annexation request for the Clifton Heights Addition plat is approved, the surrounding uses to the south and east will likely be residential in nature.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "SF-20" which allows a lower density of development and has fewer uses by right than the district requested. The property could be developed as zoned, however higher density urban type zoning exists on nearby tracts.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Density and traffic volumes will increase over current conditions if the requested zoning is approved. However, given the preliminary plat for Clifton Heights Addition has been approved and an annexation request has been made, the applicant's request represents sound land use planning. The subject parcel will serve to buffer the single-family uses of the Clifton Heights Addition from the "LI" Limited Industrial zoning to the north and the manufactured home park across Clifton Avenue to the west.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with recommended location guidelines for high density residential uses (cited above). However, the request is not in conformance with the land use recommendations of the *Functional Land Use Guide* and the *Oaklawn/Sunview Neighborhood Revitalization Plan*.
5. Impact of the proposed development on community facilities: Traffic volumes will increase and there will be increased demand for municipal services over the agricultural use that exists today. However, the recommended improvements required at the time of platting should be sufficient to minimize such impacts.

MOTION: To defer Item 6, Item 7, and Item 8 for 30 days, until March 16th, 2006, and in the interim ask the staff to give us an update on the status of the implementation of the JLUS, and coordinate with McConnell and see if they can give us a briefing on their concerns, and why they are asking that we follow the maximum operational noise contours.

DOWNING moved, **ALDRICH** seconded the motion, and it carried (9-1) (**ANDERSON** opposed)

7. **Case No.: ZON2005-59** – JRD, LLC c/o Jay Russell Request Sedgwick County Zone change from "SF-20" Single-family Residential to "GC" General Commercial on property described as;

Commencing at the SW corner of said SE1/4; thence N 89 degrees 55'38"E along the south line of said SE1/4, 786.61 feet for a point of beginning; thence N 00 degrees 04'22"W, 60.00 feet; thence N 21 degrees 07'06" W, 80.00 feet; thence N 01 degrees 38'53"W, 132.71 feet; thence N 21 degrees 23'51" W, 228.92 feet; thence N 21 degrees 53'29" E, 161.84 feet; thence N 55 degrees 39'31"E, 112.93 feet to a point on the west right-of-way line of the Burlington Northern and Santa Fe Railroad; thence S 25degrees 04'46" E along said railroad right-of-way, 747.98 feet to a point on the south line of said SE/4; thence S 89 degrees 55'38"W along the south line of said SE/4, 330.36 feet to the point of beginning.
Generally located North of 55th Street South and 1/2 mile east of Clifton.

BACKGROUND: The applicant is requesting rezoning from "SF-20" zoning to "GC" General Commercial for the 3.5-acre unplatted Sedgwick County site located on the north side of 55th Street South and immediately east of an active railroad right-of-way (ROW) and State Highway K-15 ROW. The site has approximately 330-feet of frontage along 55th Street South. The west and north sides of the site abut a drainage channel/creek, which flows from the northeast under K-15 and then south under an almost completed Sedgwick County bridge, which is part of 55th Street South. The undeveloped site is currently an uncultivated field with most of it covered with trees. The site is located approximately ½ - ¾ miles southeast of the single-family residences (built early 1950s) in the Oaklawn Neighborhood, less than two-miles southwest from McConnell Air Force Base (AFB 1942-1946, 1951 to the present) and is just outside of the Derby area of zoning influence. The Boeing and Spirit (formerly Boeing Commercial) aircraft companies, abut McConnell. The site is located within the "Wichita 2030 Urban Growth Area".

Properties east of the site, across the railroad and K-15 ROWs are zoned "SF-20" and "RR" Rural Residential. These properties east of the ROWs are mostly undeveloped fields, but include a mixed grouping of mostly older stick framed homes and some

manufactured homes. Construction of the residences in this triangular grouping (defined by 55th on its north side, Oliver Avenue on its east side, K-15 on its west side and 61st Street South on its south side) began as early as 1918 (one residence), with most of the homes being built in the 1950s and some in the early 1970s. Almost all of these residences are in the "A-O McConnell Airport Overlay District II-S (A-O II-S)" as sited in the Unified Zoning Code; UZC, Art. III, Sec. III-C. This overlay district prohibits residential uses and uses that would concentrate large numbers of people for public safety reasons and to preserve the mission of McConnell AFB.

Properties located west, north and south of the site are all zoned "SF-20". The previously noted creek and the railroad and K-15 ROWs defined the property south (across 55th) of the site, which is an uncultivated field and resembles the site. Property north of the site is an uncultivated field and resembles the site. West of the site, across the creek, there is a proposed approximately 156 lot single-family subdivision, SUB2005-98, on what is now an agricultural field. This residential subdivision extends west to Clifton Avenue and abuts two other zoning case sites that are on today's agenda; CUP2005-75 & ZON2005-61, a request for "LC" Limited Commercial zoning and ZON2005-60 a request for "MF-29" zoning.

The zone change request will trigger platting, compatibility setback, height, noise and design standards, screening and landscaping and other urban development standards.

CASE HISTORY: The site is included in the "Oaklawn/Sunview Neighborhood Revitalization Plan", which was adopted by the Sedgwick County Board of County Commissioners (Resolution #37-02) March 20, 2002 and by the Wichita City Council (Ordinance #45-299, DR2000-00018) April 9, 2002, "which identifies it as appropriate for warehousing and light manufacturing. The site is also shown to be in the "2005 McConnell Air Force Base Joint Land Use Study" (JLUS). McConnell's mission changed in 2002, however a "maximum mission area" has been identified. The JLUS recommends preservation of the "maximum mission area" through the next two years. Specific implementation of recommendations is to be determined in the future.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Creek, uncultivated field
SOUTH:	"SF-20"	55 th Street South ROW, uncultivated field
EAST:	"SF-20", "RR"	Railroad and K-15 ROWs, uncultivated field, Single-family residential
WEST:	"SF-20"	Creek, residence, agricultural field

PUBLIC SERVICES: Access to the site is off of 55th Street South, a paved, two-lane Sedgwick County highway that ends approximately a mile west of the site, before it gets to the Arkansas River; there are no plans to build a bridge to allow 55th to cross the river. K-15 is a four-lane state highway, with a left hand turn lane. The 2030 Transportation Plan projects no change for these roads. Traffic counts for 55th, west of its K-15 intersection are 610 ADTs. This is projected to increase to 1,000 ADTs in 2030. Traffic counts for K-15, at its 55th intersection are 27,000 ADTs. This is projected to increase to 39,000-40,000 ADTs in 2030. There are crossing lights, but no arms/gate, at the 55th Street South railroad crossing. Public sewer and water services will have to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Functional Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" identifies the application area as appropriate for "employment/industry center". The types of uses in this category include centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature, with the range of uses including manufacturing and fabrication, warehousing, shipping centers, call centers and corporate offices.

The site is also located in the "Oaklawn/Sunview Neighborhood Revitalization Plan", which identifies it as appropriate for warehousing and light manufacturing. This Plan's use recommendations were based upon the 1994 "Air Installation Compatible Use Zone" (AICUZ) study for McConnell Air Force Base (AFB). According to the "McConnell AFB Joint Land Use Study" (JLUS), completed in 2005, McConnell's mission changed in 2002. This change in mission resulted in a reduction of the "maximum mission area", which the site was located in. The "maximum mission area" is defined as the noise contour boundaries map established by the 1994 AICUZ study. The 2005 JLUS recommends preservation of the "maximum mission area" through 2007, with the aim being:

- (a) To protect and promote the present and future operational/mission capacity of McConnell AFB.
- (b) Promote the long-term health, welfare and safety of the civilian and military community associated with and in proximity to McConnell AFB.
- (c) Prevent future urban encroachment into McConnell's 1994 AICUZ area to ensure compatibility between existing future competing land and air space use (military and civilian).
- (d) Develop ongoing public education/awareness initiatives to help implement JLUS recommendations.

Although the implementation of the JLUS recommendations has not yet been approved, the governing bodies of Wichita, Sedgwick County and Derby have formed a committee to determine which of the JLUS recommendations to implement.

The requested "GC" zoning with the provisions of the proposed Protective Overlay meets the intent of the "Wichita-Sedgwick County Comprehensive Plan", the "Oaklawn/Sunview Neighborhood Revitalization Plan" and the as yet not adopted 2005 "McConnell AFB Joint Land Use Study."

RECOMMENDATION: Typically Staff does not recommend "GC" zoning, but because the applicant has indicated that development interested in the site involve outside storage Staff has proposed a Protective Overlay that would essential allow "LC" uses plus outdoor storage. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED with platting within a year and the following provisions of PO #168:

- (1) Prohibited uses included all residential uses, group residences, assisted living, bed and breakfast inns, hotels/motels, recreational vehicle campgrounds, churches and places of worship, auditorium or stadium, community assembly that would attract more than 25 spectators/participants per acre at any time, recreation and entertainment indoor or outdoor

that would attract more than 25 spectators/participants per acre at any time, public and private schools (all levels) or libraries, day care centers, hospitals, convalescent care, retail food stores of more than 3,000 square-feet, adult entertainment establishments, sexually oriented businesses, private club, tavern and drinking establishments, correctional placement residence, correctional facilities and an asphalt/concrete plant.

- (2) Maximum height for all buildings of 45-feet; this does not over ride the compatibility height standards.
- (3) If development on the site involves uses that have outdoor storage or extensive outdoor display a landscape and screening plan shall be submitted to the Planning Director for review and approval.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is predominately zoned "SF-20" and is either uncultivated fields or agricultural fields. Proposed development in the area include a single-family residential subdivision, an "LC" zoned CUP and multifamily residential, all located west and across the creek from the site. The site and the just mentioned proposed developments are all in the Oaklawn/Sunview neighborhood and present a scale of investment and development in this area that has not occurred since the 1950s. The proposed single-family residential subdivision will probably introduce an upgrade in the quality of housing in the Oaklawn/Sunview area, which also includes the Pinaire Mobile Home Park Addition. Properties east of the site, across the railroad and K-15 ROWs are impacted by the "A-O McConnell Airport Overlay District II-S" which basically prohibits any future residential development or development that would allow large concentrations of people for public safety reasons. This overlay district also protects both the integrity and mission of McConnell AFB, by preventing encroachment into the land and air area of the "maximum mission area" of the AFB.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "SF-20" and could continue to be used with this zoning designation, although its abutting the railroad and K-15 ROWs, and being in the 75db noise contour of McConnell may have made it less desirable for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "GC" General Commercial zoning with the proposed PO would allow uses that have been recommended by adopted plans for the area as well as plans under consideration that the area is included in. Some of the prohibited uses listed in the proposed PO would also eliminate uses that could become a nuisance to the proposed and existing single-family neighborhoods; those prohibited uses included adult entertainment establishments, sexually oriented businesses, private club, tavern and drinking establishments, correctional placement residence, correctional facilities and an asphalt/concrete plant.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: This is the area designated on the Wichita Functional Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" and the Oaklawn/Sunview Plan as appropriate for manufacturing and fabrication, warehousing, shipping centers, call centers and corporate offices. The proposed "GC" zoning with the proposed PO conforms to those plans.
5. Length of the time property has remained vacant as zoned: The property appears to have never been developed and judging by the number of trees on the site it also appears to have been a long time since it has been cultivated for agricultural use. Its irregular configuration with the creek on its west and north sides and the railroad and K-15 ROWs on its east side make the property a challenge to develop.
6. Impact of the proposed development on community facilities: The proposed zone change can be anticipated to add to the traffic count along 55th Street South in addition to the proposed single-family, commercial and multi-family development west of the site. Crossing over onto K-15 from 55th can be anticipated to become more problematic, as this intersection has no traffic lights, although traffic along 55^{th west} of K-15 should remain local in character, as 55th ends approximately a mile west of the site, short of the Arkansas River. All public utilities will have to be extended to the site.

MOTION: To defer Item 6, Item 7, and Item 8 for 30 days, until March 16th, 2006, and in the interim ask the staff to give us an update on the status of the implementation of the JLUS, and coordinate with McConnell and see if they can give us a briefing on their concerns, and why they are asking that we follow the maximum operational noise contours.

DOWNING moved, **ALDRICH** seconded the motion, and it carried (9-1) (**ANDERSON** opposed)

8. Case No.: CUP2005-75 Associated with (ZON2005-61) – JRD, LLC, Jay W. Russell (owner); Baughman Company, PA, c/o Russ Ewy (agent) Request The creation of DP-294 Clifton Heights Commercial Community Unit Plan; and Sedgwick County Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as;

That part of the E/2 of said SW/4 described as follows: Beginning at the Southwest corner of the E/2 of said SW/4; thence N 00 degrees 00'06" West along the West line of the E/2 of said SW/4, 1185.00 feet; thence North 89 degrees, 59'00" East, 721.77 feet; thence South 00 degrees 01'00" East, 88.00 feet; thence South 17 degrees 54'31" East, 288.38 feet; thence South 17 degrees 41'49" West, 234.62 feet; thence South 06 degrees 06'51" West, 362.27 feet; thence South 66 degrees 59'10" West, 158.00 feet; thence South 00 degrees 01'00" East. 177.15 feet to a point on the South line of the E/2 of said SW/4; thence South 89 degrees 59'00" West along the South line of the E/2 of said SW/4, 555.16 feet to the point of beginning. Generally located on the northeast corner of 55th Street South and Clifton Avenue.

BACKGROUND: The applicant proposes to create a commercial Community Unit Plan containing approximately 4.54 acres located east of Maize Road approximately ¼ mile north of 21st Street North and rezone the property from "SF-5" Single-family Residential to

"LC" Limited Commercial. The CUP anticipates cross lot circulation with DP-204 Chadsworth Commercial CUP (see General Provision 23). The proposed CUP would be designed to tie together with this commercial development.

The CUP has one parcel, which would permit uses considered to be more compatible in close proximity to residential than normally found on an "LC" zoned tract. Permitted uses would be the following:

Residential: single-family; duplex; assisted living

Public and civic: church or place of worship; college or university; community assembly; convalescent care facility; day care; government service; hospital; library; parks and recreation; recycling collection station; safety service; school; utility, minor

Commercial: ATM; bank or financial institution; broadcast/recording studio; funeral home; hotel or motel; medical service; nursery and garden center (would require CUP amendment prior to establishment); office, general; parking area, commercial; personal care service; personal improvement service; post office substation; printing and copying, limited; recreation and entertainment, indoor; restaurant; retail, general; vocational school; wireless communication facility; storage, outdoor.

The list of prohibited uses would be: adult entertainment establishment; sexually oriented business; asphalt/concrete plant; private club; tavern, drinking establishment; multi-family; accessory apartment; group residence; neighborhood swimming pool; cemetery; correctional placement residence; golf course; group home; recycling collection station; reverse vending machine utility, major; animal care; bed and breakfast inn; car wash; construction sales and services; convenience store; heliport; kennel; marine facility; monument sales; night club in the City; parking area, commercial; pawn shop; printing and publishing, general; recreation and entertainment, outdoor; recreational vehicle campground; secondhand store; service station; vehicle and equipment sales, outdoor; vehicle repair, limited; manufacturing, limited; mining or quarrying ; oil or gas drilling; rock crushing; solid waste incinerator; agricultural research; agricultural sales and service.

Conditional uses in "LC" would require a CUP amendment approval in lieu of Conditional Use approval prior to being permitted.

Buildings would have uniform architectural compatibility of character, color, texture and materials, and would use earth-tone colors predominately. Parking lots would have similar or consistent lighting elements, limited to 24 feet in height. Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent. Maximum building height would be 35 feet. This is the same height allowed in the adjoining residential zoning district. The proposed number of buildings would be four.

Ground signage would be three monument type signs with a maximum height of 20 feet and a total sign area of 325 square feet in size, which exceeds the amount allowable under the Wichita Sign Code of 264 square feet. Portable and off-site signs are prohibited. Window displays would be limited to 25% of window area and signs on the rear would be prohibited. Moving signs except time and temperature or public service message are prohibited.

A six-foot concrete/masonry screening wall is required on the north, east and south property line adjacent to residential zoning. The setback proposed on the CUP is 100 feet on the east property line to afford greater separation for the abutting residential dwellings to the east and south. The standard 35-foot setback for a CUP is shown on the north property line.

The property currently is zoned "SF-5" and developed with a church, which would be razed. The property to the east, north, and eastern 100 feet on the south is zoned "SF-5" Single-family Residential and developed with single-family dwellings in the Chadsworth Subdivision. The property to the south (except for the eastern 100 feet of the southern property line), and to the west across Maize Road is zoned "LC" and developed with a wide range of commercial uses, including sit-down restaurants, drive-through restaurants, small multi-tenant commercial buildings, banks, auto repair, large grocery store (Dillon's), Wal-Mart, the main NewMarket Square Shopping Center.

CASE HISTORY: The property is platted as Agape Addition, recorded January 11, 1999.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residential
SOUTH: "LC"; "SF-5"	Commercial strip center, auto repair, restaurant, grocery, bowling alley
EAST: "SF-5"	Single-family residential
WEST: "LC"	Shopping center; bank, Wal-Mart, multi-tenant commercial building, restaurants

PUBLIC SERVICES: Two access points are requested on Maize Road. Maize Road is a six-lane (two in each direction of travel and dual-left continuous turn lanes) along the property. A signalized intersection is located 125 feet north of the property serving NewMarket Square. Traffic expected from this tract should be a relatively modest increase compared with the existing traffic volume on Maize Road.

Other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "major institutional" use. The requested change is not in conformance with the Land Use Guide and reflects its current approval for church use.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines.

RECOMMENDATION: The proposed CUP is similar or lesser in intensity to commercial development approved and developed to the south and west along Maize Road. The property to the south on the east side of Maize Road is designated as "local commercial" and the property on the west as "regional commercial". This tract more closely fits the "local commercial" designation, which is the category encompassing commercial, office and personal service uses that do not have a significant regional market draw. Creating an adequate buffer between the proposed rezoning tract and the residential dwellings to the north and east is the key concern for the CUP requirements.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2005-54) to "LC" Limited Commercial subject to replatting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-293), subject to the following conditions:
 1. Access shall be limited to one full movement and one right-in/right-out and be in compliance with the Access Management Policy.
 2. Increase the building setback on the north property line to 70 feet and retain the existing tree row of coniferous trees along the north and east property lines.
 3. Add to General Provision 7 F: *and shall be spaced a minimum of 150 feet apart, with no sign allowed within 70 of the northern property line, and a maximum sign face area of 264 square feet (0.8 times lineal frontage) cumulative for the CUP.*
 4. Add to General Provision 9 A (changes in italics): *Limited height of light poles including fixtures, lamps and base to 24 feet except within 100 feet of residential zoning districts and on the rear wall of buildings adjoining residential zoning districts lighting (building wall units and freestanding standards) shall be limited to 15 feet in height, including poles, fixtures, lamps and base, and shall have directional shielding to prevent light spillage onto residential zoning districts and otherwise comply with General Provision 8.*
 5. Add to General Provision 14: *with materials similar to the exterior materials of the main buildings.*
 6. Add to General Provision 15: *Metal shall not be used as the predominant exterior material on any façade and shall not be permitted as the exterior material above the height of the screening wall except for trim for facades directly abutting residential zoning.*
 7. Add to General Provision 17: *Conditional uses shall be permitted only if approved by a CUP amendment.*
 8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 9. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 10. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 11. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-293) includes special conditions for development on this property.
 12. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property currently is zoned "SF-5" and developed with a church. The property to the east, north, and eastern 100 feet on the south is zoned "SF-5" Single-family Residential and developed with single-family dwellings in the Chadsworth Subdivision. The property to the south (except for the eastern 100 feet of the southern property line), and to the west across Maize Road is zoned "LC" and developed with a wide range of commercial uses, including sit-down restaurants, drive-through restaurants, small multi-tenant commercial buildings, banks, auto repair, large grocery store (Dillon's), Wal-Mart, the main NewMarket Square Shopping Center.
2. The suitability of the subject property for the uses to which it has been restricted: The area is developing with commercial uses but could continue to be used as a church. Residential uses other than assisted living are unsuited for the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact is to the residential dwellings abutting the proposed development. The wider setback and retention of the mature evergreen buffer is designed to mitigate the impact. Also, keeping signage at least 70 feet from the northern property line will reduce the signage impact on the abutting residences. The range of uses prohibited reduces the potential impact on the adjacent neighborhood. The more intensive auto-serving uses such as car wash, vehicle repair, convenience store and service station are prohibited.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "major institutional" use. The requested change is not in conformance with the Land Use Guide and reflects its current approval for church use. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan

recommends that commercial sites should be located adjacent to arterials. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines.

5. Impact of the proposed development on community facilities: Traffic expected from this tract should be a relatively modest increase compared with the existing traffic volume on Maize Road. The main concern is to maintain adequate spacing and avoid conflicting left turn movements by adhering to the Access Management Policy for access points and reducing one access point to right-in/right-out only.

MOTION: To defer Item 6, Item 7, and Item 8 for 30 days, until March 16th, 2006, and in the interim ask the staff to give us an update on the status of the implementation of the JLUS, and coordinate with McConnell and see if they can give us a briefing on their concerns, and why they are asking that we follow the maximum operational noise contours.

DOWNING moved, **ALDRICH** seconded the motion, and it carried (9-1) (**ANDERSON** opposed)

MITCHELL How many meeting of MAPC would that 30 days cover?

SCHLEGEL There is a March 16th meeting, so I would interpret that motion to mean, put it back on the March 16th meeting, with the presentation first by staff and the McConnell people, and these items to follow.

DUNLAP What happens if we don't get a response from McConnell?

DOWNING We will.

ANDERSON I guess we could agree to defer these items, but I can't see that anything is going to change. I think what we should do is offer encouragement to this developer to go ahead and develop this property as they see fit and go along with the recommendations of staff.

9. **Case No.: PUD2005-06 #22** – North Emporia Residence, LC (Al Joseph); Baughman Company, PA (Phil Meyer) Request The creation of the Old English Manor Apartments Planned Unit Development on property described as;

Lots 44, 46, 18 and 50, on Emporia Avenue, Burleigh's Addition to Wichita; together with Lots 43, 45, 47, and 49, on 4th Street (now St. Francis Avenue), Burleigh's Addition to Wichita. Generally located South of 11th Street North, between Emporia and St. Francis.

BACKGROUND: The applicant is seeking the creation of Planned Unit Development zoning (PUD #22, Old English Manor Apartments) for 30,018.7 square feet of platted land located south of 11th Street, between Emporia and St. Francis. (See attached site plan.) The property is zoned TF-3 Two-family Residential.

The western half of the application area is developed with a two-story apartment building, which contains 24 one-bedroom units. This building was constructed in 1929, before the city had off-street parking requirements, therefore, this use does not provide any off-street parking. Residents park their vehicles on the street or illegally on the vacant unpaved lot located to the east that is part of this application. The existing apartment use is non-conforming with respect to the current code's off-street parking requirements. Current code would require 30 on-site parking spaces for this building. The existing apartment building has the following setbacks: front 9.5-, rear 0-, interior side 11- and street side 2-feet. The TF-3 district has the following building setback requirements: front 25-, rear 20-, interior side 6- and street side 15-feet. Therefore, the existing apartment building is also non-conforming with respect to building setbacks. Also, the TF-3 zoning district only allows multi-family units with a "conditional use;" thus even the use is non-conforming. If this request is approved the proposed PUD would eliminate all of these non-conforming issues.

The western half of the application area is also located within the state and national historic registered Topeka-Emporia Historic District. Projects within historic districts require Historic Preservation Board review (see case history below).

The eastern half of the application area is vacant. The applicant intends to construct an eight-unit, two-story apartment building on the site. The exterior of the building would be a combination of brick and vinyl siding that looks like lap siding, and it would have a gable roof with composition shingles. The building is proposed to be located on the southern-most portion of the site with 14 parking spaces located on the northern end of the lot (14 spaces are needed for code). The proposed eight units would be divided equally into four two-bedroom and four three-bedroom units. To make the proposed development plan work, the applicant needs relief from the rear-building setback, as they propose a five-foot setback. As with the western half of the site, an apartment building is not a use permitted by right in the TF-3 district. The proposed PUD would allow the development as proposed.

An application is in process to vacate the 20-foot alley that separates the two application areas. A dumpster is proposed to be located in the vacated alley on the southern side of the lot, and in between the existing and proposed apartments. Compatibility setback standards state that any dumpsters or refuse receptacles are to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive. The lot to the south is zoned TF-3. On the site plan, the dumpster appears to be located closer than 20, but with City Council approval this standard can be modified. If a modification is not approved, the dumpster will need to comply with the standards. Compatibility height setback standards require that no structure shall exceed 35 feet in height when located within 50 feet of the lot line of property zoned TF-3 or more restrictive. It does not appear that the proposed building exceeds that height, but at the time this report was prepared it was unclear what the height of the proposed building is to be. If the building exceeds that height, then City Council approval is needed modify that standard. Access to the site would be provided by the existing approach to the alley, and on St. Francis.

A brick-screening wall is proposed along the northern property line of the eastern half of the application area with landscaping to be installed north of the wall.

This project has evolved since it was initially presented to the neighborhood association. The original proposal envisioned the construction of a 12-unit apartment located on the southern quarter of the lot with two rows of parking on the northern portion of the lot. In order to fit two rows of parking in, street right-of-way would have to be used to have enough room to install the second row of parking. A minor street permit would have to have been obtained to use street right-of-way. Staff is advised that at the first meeting the neighbors stated that they would prefer to see a plan where the building was located out at the street in order to screen the parking lot, and that as much parking as possible be provided in order to provide parking for the existing apartment building as well as the new building. The applicants reduced the number of units to the proposed eight apartments but could not put the building at the street and maximize parking without utilizing street right-of-way for parking.

A second meeting was held with the neighborhood, and they asked the applicant to make additional revisions: eliminate the parking proposed to be located in the right-of-way; provide a low brick screening wall along the 11th Street frontage where the new parking lot is proposed; provide landscaping along that knee wall; make the parking lot drive-way one-way, west to east which would permit parallel parking to be provided along the 11th Street frontage; prohibit the placement of air conditioning units in the court yard of the existing apartment building; screen any air condition units located along 11th Street with landscaping and close the drive approach at the southwest corner of the existing apartment building.

The City Council has approved the site for a 100 percent low-income residential project, instead of the usual 80 percent to 20 percent ratio, and the state had approved the original project as a tax credit endeavor.

CASE HISTORY: The site is Lots 43-50, Burleigh's Addition. Burleigh's Addition was recorded in 1880. In 2004, the site was down zoned to TF-3 Two-family Residential zoning by DR2004-9, the Midtown Neighborhood Plan zoning initiative. Prior to 2004, the site was zoned B Multi-family Residential. The western half of the site is also part of the Topeka-Emporia Avenue Historic District established in 1977 (H77-7). The eastern half of the site is subject to state "environs" review by the Historic Preservation Board (HPB) due to the Topeka-Emporia district. An application to vacate the alley all the alley (VAC2005-34) has been processed through MAPC. The Historic Preservation Board reviewed a development plan very similar to this request on January 9, 2006, and recommended 4-3 to approve the project. The project the HPB reviewed included more parking on the eastern portion of the application area that utilized street right-of-way to provide additional parking spaces.

Since the HPB meeting, the applicant has had another meeting with the Midtown Historic Citizens Association, and the applicant was asked to modify the original site plan. The current site plan reflects Midtown's requests. The modifications are minor enough that a second review by the HPB is not necessary unless there are additional significant changes.

ADJACENT ZONING AND LAND USE:

NORTH: TF-3 Two-family Residential / SF-5 Single-family; residences
SOUTH: TF-3 Two-family Residential; residences and park
EAST: TF-3 Two-family Residential / B Multi-family; residences
WEST: MF-29 Multi-family Residential / B Multi-family; residences and medical office

PUBLIC SERVICES: Expected utilities and transportation routes are present.

CONFORMANCE TO PLANS/POLICIES: *The Midtown Neighborhood Plan*, adopted in 2004, depicts this site as appropriate for "single detached or duplex" residential. (The Midtown Plan included a proposal to down zone over-zoned properties within Midtown. This property was under another ownership at the time the down zoning initiative occurred. That owner did not object to the down zoning, thus the property was down zoned from B Multi-family Residential to TF-3 Two-family Residential. The current owners obtained the property not realizing the site had been down zoned.)

RECOMMENDATION: An argument could be made that the site is being over-developed with the addition of eight new units resulting in a less than minimum number of off-street parking spaces for the entire project. However, it is staff's understanding that it would be unlikely that the renovation of the existing apartments would occur without the new construction. An opportunity to upgrade an existing facility and provide new affordable housing on a vacant lot is probably a positive trade-off. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Provide a low (three-foot) brick screening wall along the 11th Street frontage where new parking lot is proposed;
2. Provide landscaping per code that includes landscaping along the north side of the knee wall;
3. Revise the parking lot design to make the drive-way one-way with entry off of 11th Street and with the exit to St. Francis, angle the parking spaces to permit a 17-foot driveway and provide parallel parking along the 11th Street frontage;
4. Prohibit the placement of air conditioning units in the court yard of the existing apartment building;
5. Screen any air condition units located along 11th Street with landscaping;
6. Close the drive approach on Emporia located at the southwest corner of the existing apartment building;
7. Comply with all other applicable local, state or federal regulations.
8. Submit a revised site plan that reflects conditions of approval, if the conditions of approval differ from that submitted.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Surrounding zoning is a mix of SF-5, TF-3, MF-29 and historic zoning districts with a mix of uses. Most uses are residential but there is a public park and a medical office in the immediate vicinity. The application area is one of the older parts of town with buildings of historic significance. The neighborhood has been active in protecting the areas historic character, securing the adoption of a neighborhood plan and in maintaining and preserving the value of the area's properties.

2. The suitability of the subject property for the uses to which it has been restricted: The western half of the site is zoned TF-3 Two-family Residential which makes the 24 unit apartment building a non-conforming use. This non-conformity may make it difficult for an owner to obtain financing to make any renovations to the existing building. The TF-3 zoning on the western half of the application area does not seem suitable unless the concern is the apartment building will be razed. In that situation, the present zoning is consistent with the adopted Midtown Plan. The eastern half of the application area is also zoned TF-3, but is vacant. Single-family homes or duplex units are among the uses that could be developed on this half of the site under its current zoning. Single-family or duplex units are suitable uses for the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The PUD would allow the construction of an apartment project that would not be allowed under its current zoning. However the proposal limits the new construction to eight units and, according to the applicant, makes it financially feasible to renovate the existing 24-unit building. Although proposed setbacks and parking standards are less than what the code would normally require, the PUD's site plan and condition of approval minimizes detrimental impacts. Multi-family units generate approximately 7 auto trips per day. Single-family units generate approximately 10 trips per day.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The addition of additional low income units is positive for the larger community, however, this neighborhood may feel that they have absorbed more than their share of low income units. The applicant indicates the tax credits available for this project are what make the project feasible.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: *The Midtown Neighborhood Plan*, adopted in 2004, depicts this site as appropriate for "single detached or duplex" residential, therefore the proposed project is not consistent with *The Midtown Plan*. However, the plan does provide a means to renovate an older existing apartment project that will provide lower rent residential units which is consistent with other city policies designed to provide and promote affordable housing.
6. Impact of the proposed development on community facilities: Traffic, sewer and water will increase with new construction, but not beyond that which can existing systems can accommodate.

DALE MILLER I did get a call yesterday from someone who lives straight north of the existing complex that was concerned that the existing complex needed more off-street parking, and was disappointed in the situation at this point. There have been DAB meetings and the Historic Midtown Citizens Association that have reviewed the proposal, and the site plan today is what they agreed upon at the last meeting.

EWY We are in agreement with staff comments. This project, in one form or another, has been in the works for about a year, and this plan is an accumulation of all those meetings that we have had over the last 2-3 months.

JANET L. MILLER, 1102 JEFFERSON, Wichita, KS 67203 I am a representative from the Historic Midtown Citizens Association. Mostly we are pleased to express that this project will be beneficial to Midtown. The original plan had 12 units on this property, so we are pleased with the reduction to eight units. We are not objecting to the project but we are a little weary because of the parking situation. We know the applicant is interested in doing another project or two at 100 per cent low income in the area, and we are cautious about that at this point, because the trend and reports show that it is better to mix affordable and regular housing.

DUNLAP You are not objecting to this project?

JANET MILLER We do have reservations. Our group was somewhat divided on this proposal if these conditions would be met, and the applicant has met with us and agreed to those requests of ours, which included the knee wall, etc.

DUNLAP This is not fixable after it is done.

JANET MILLER Yes, we know.

ALDRICH Does this project also fit within the Midtown Committee Development Corporation plans also?

JANET MILLER The Midtown Committee Development Corporation, which is just getting onto its feet, has not undertaken any projects yet. Our core activities will primarily be renovation of existing properties.

MOTION: Approve subject to staff recommendations.

MITCHELL moved, **DUNLAP** seconded the motion, and it carried 10-0.

10. Case No.: ZON2006-03 – Aaron McPeak Request Zone change from "SF-5" Single-family Residential to "MF-18" Multi-family Residential on property described as;

Lot 1, Block 3, Avery Addition, Sedgwick County, Kansas. Generally located on the southeast corner of north 8th and Gilda.

BACKGROUND: The application area consists of an undeveloped, platted lot located south of 8th Street and east of Gilda, west of I-235. The .36-acre site is zoned "SF-5" Single-family Residential, the applicant requests "MF-18" Multi-family Residential zoning to allow for duplex development. Under MF-18 zoning, the applicant could develop two duplexes on the site without a lot split.

Property north of the site is zoned "B" and "MF-18" Multi-family Residential with a CUP (DP 70, Sandpiper Bay) and is developed with a nursing home and town homes. South and west of the site are SF-5 zoned single-family residences. East of the site is I-235. One MF-18 lot, and several TF-3 lots are in the surrounding area.

CASE HISTORY: The site was platted as Lot 1 Block 3 of the Avery Addition in 1955.

ADJACENT ZONING AND LAND USE:

NORTH: "B", "MF-18"	Nursing home, multi-family residential
SOUTH: "SF-5"	Single-family residential
EAST: "SF-5"	Interstate highway
WEST: "SF-5"	Single-family residential

PUBLIC SERVICES: Gilda and 8th Street are paved local roads with 60-foot rights-of-way at this location. The site has easy access to Central, an arterial street, and I-235. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential". The Urban Residential category includes all densities of residential development found within the urban municipality.

Under MF-18 zoning, the Unified Zoning Code (UZC) requires a minimum lot area of 3000 square feet per unit for duplex, and 2,500 square feet per unit for multi-family development. The application area is 15,678 square feet; under MF-18 zoning it could be developed with 6 multi-family dwelling units, or two duplexes (four dwelling units). Multi-family development on the site would require a 25-foot compatibility setback from the single-family property to the south. Multi-family development would also require a landscape plan, and conformance to the UZC parking requirements.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned "B" and "MF-18" Multi-family Residential with a CUP, and is developed with a nursing home and town homes. South and west of the site are SF-5 zoned single-family residences. East of the site is I-235. The request is not out of character for the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with single-family residential uses, as well as some other compatible nonresidential uses. With a lot split, the site could be developed with two single-family units. Because the site abuts an interstate highway, it may not be desirable for single-family development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would double or triple the density at which the site could be developed, depending on duplex or multi-family development. The affect on nearby residents would be increased traffic on Gilda. However, single-family residences generate more traffic per unit than multi-family residences. The minimum standards of the Unified Zoning Code should mitigate any other potential negative affects on the surrounding residential neighbors.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential". The Urban Residential category includes all densities of residential development found within the urban municipality.
5. Impact of the proposed development on community facilities: Traffic on the existing residential streets will increase as a result of the proposed development. This site has easy access to Central and I-235. Other community services are in place or are available.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **MITCHELL** seconded the motion, and it carried (9-0).

11. **Case No.: CON2006-01** – City of Wichita, Property Management, c/o John Philbrick (applicant); Ruggles & Bohm, PA., c/o Paul Cater (agent) Request Conditional Use for Utility, Major on property zoned "SF-5" Single-family Residential on property described as;

A tract of land in Section 24, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as being the South 175.00 feet of the North 215.00 feet of the West 230.00 feet of the East 595.00 feet of the Southeast Quarter of the Northeast Quarter of said Section 24, EXCEPT road right of way on the East. Generally located West of Meridian approximately 1/4 mile south of 53rd Street North.

BACKGROUND: The applicant is seeking a Conditional Use permit to allow the construction of a major utility. The major utility will be a sanitary sewer pump station with a force main line. The proposed pump station is defined as a major utility, per Art.III, Sec.II-B, #13h & #13i of the Unified Zoning Code (UZC, see exhibit of definitions). A major utility is a Conditional Use in all zoning districts.

The subject site is currently unplatted. However, a plat has been submitted for approval (North Sanitary Sewer Addition, case # SUB2006-0004). The subject property is vacant and zoned "SF-5" Single-family Residential, as is adjacent property to the east, west and south. The property to the north is zoned "SF-20" Single-family Residential and is used for agricultural purposes.

The proposed pump station will be located approximately 400 feet west of Meridian. The access drive will be paved with asphalt and located directly across from the terminus of 51st Street North. The facility will connect to the city's sanitary sewer via a 10-inch sanitary sewer force main, which will be extended to the site from a utility easement adjacent to the Meridian right-of-way and along the asphalt drive. The placement of this facility will assist in the northern expansion of the sanitary sewer system and allow for increased service levels to the vicinity.

Odor from the site will be controlled by a biofilter in the vent stack located onsite. The pump station on the site will be housed in an approximately 3,600 square foot building, the exterior of which will be comprised of brick and EIFS construction and a shingled roof. A mechanic will visit the site every day between 7:30 AM and 4:00 PM. The average visit will be less than 30-minutes. The generator housed in the building will run for approximately 30-minutes, once a week (not on weekends) around 1:00 PM. It is proposed that the mechanic will park in front of the building.

Insufficient landscaping is shown on the site plan. Staff recommendation for perimeter landscaping is: a) one shade tree; b) two ornamental trees; 10 shrubs; or d) any combination thereof for every 40 lineal feet of perimeter adjacent to residential zoning. The site plan shows no lighting on the site.

CASE HISTORY: The site is currently unplatted. However, a plat has been submitted (North Sanitary Sewer Addition, case # SUB2006-0004) in conjunction with this Conditional Use request. There is no other known case history for the subject property.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Vacant
SOUTH:	"SF-5"	Vacant
EAST:	"SF-5"	Vacant
WEST:	"SF-5"	Vacant

PUBLIC SERVICES: The site has access to Meridian. All other necessary services will be provided with the development of the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Functional Land Use Guide identifies this area as "urban residential." The pump station is a public facility classified as a major utility. Major utilities are needed to provide the general public with electricity, gas, heat, steam, communication, rail, transportation, water, sewage collection and other similar services. The proposed pump station will help provide efficient service to the surrounding area. A major utility is permitted as a Conditional Use in all zoning districts.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the site being platted within one year and the following Conditional Use restrictions:

- A. The applicant shall obtain all permits necessary to construct the sanitary sewer pump station, prior to the operation commencing.
- B. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- C. A landscape plan shall be submitted and approved prior to beginning operations that meets the following specifications for perimeter landscape buffering adjacent to property zoned residential. For every 40 linear feet of perimeter, the buffer plantings shall be comprised of either: a) one shade tree; b) two ornamental trees; c) 10 shrubs with a mature height of at least five feet; or d) any combination thereof.
- D. The site plan will contain the note that the pump house-building exterior will be constructed of brick and EIFS in colors that provide consistency with the surrounding residential neighborhoods.
- E. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is single-family residential, however the immediately adjacent tracts are currently vacant. The properties surrounding the subject property are zoned "SF-5" and "SF-20." The proposed use will serve as an infrastructure support facility for the existing and future nearby residential development.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on remaining residentially zoned properties in the area should be minimized by the conditions of the Conditional Use, including landscape buffering requirements and limitations on noise, lighting, and other activities. The Water and Sewer Department has indicated that the biofilter in the vent stack an effective method of odor control.
3. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would force the applicant to find another location. The sanitary sewer pump station is necessary to provide expanded infrastructure support to the area. Expansion of the sewer system into the surrounding area will allow for less dependence upon private septic systems.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita Land Use Guide identifies this area as "urban residential." The "Plan" contains an objective that states the community is to "promote the development of a comprehensive set of sanitary sewer systems that provide the most economic and efficient service

possible." The Water and Sewer Department has identified this site as an efficient site for providing service to the surrounding area. Given the aforementioned factors, this proposal is consistent with Comprehensive Plan recommendations.

5. Impact of the proposed development on community facilities: The proposed pump station will increase the applicant's ability to provide adequate services to the area. There are no discernable negative impacts on community facilities.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **MITCHELL** seconded the motion, and it carried (9-0).

-
12. **Case No.: ZON2006-01** – Roger Leatherwood (owner), Bradley Nichols (agent/contract purchaser) Request Zone change from "SF-5" Single-family Residential to "TF-3" Two-family Residential on property described as;

Lots 2 and 3, Mires Addition, Wichita, Sedgwick County, Kansas. Generally located at the intersection of Boyd and Linder.

BACKGROUND: The application area consists of two undeveloped, platted lots located south of W. Central and east of Boyd, at the Boyd and Linder intersection. The .5-acre site is zoned "SF-5" Single-family Residential, the applicant requested "TF-3" zoning to allow for duplex development.

Property north of the site is zoned "LC" Limited Commercial and developed with offices, a convenience store, and a fast-food restaurant; these properties have access via W. Central. South, east, and west of the site are SF-5 zoned single-family residences. West of the site, at the dead-end portion of Linder, is an LC zoned self-storage facility. The site has easy access to both Central and southbound I-235.

CASE HISTORY: The site was platted as Lots 2 and 3 of the Mires Addition in 1981.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"	Office, convenience store, fast-food restaurant
SOUTH: "SF-5"	Single-family residential
EAST: "SF-5"	Single-family residential
WEST: "SF-5", "LC"	Single-family residential; self-storage

PUBLIC SERVICES: Boyd and Linder are unpaved local roads with 60-foot rights-of-way at this location. The site has easy access to Central, an arterial street, and southbound I-235. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential". The Urban Residential category includes all densities of residential development found within the urban municipality. The Unified Zoning Code (UZC) requires a minimum lot area of 3000 square feet per residential unit in TF-3 zoning. Each of these lots are 10,327 square feet, and the applicant has not indicated a desire to re-plat this property. Under TF-3 zoning, the site could be replatted to three lots, and developed with up to three duplexes.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The immediate residential neighborhood is zoned "SF-5" Single-family Residential, and developed primarily with single-family homes. The application abuts "LC" Limited Commercial zoning and commercial development to include office, convenience store, fast-food restaurant, and self-storage. The proposed rezoning could serve as a buffer between existing commercial zoning and single-family zoning.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with single-family residential uses, as well as some other compatible nonresidential uses. Because the site abuts commercial zoning and development, it may not be desirable for single-family development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would double the density at which the site could be developed. The site currently could accommodate two residences, and could be replatted to accommodate three. Under a rezoning, the site could accommodate four residences, and could be replatted to accommodate six. The affect on nearby residents would be increased traffic. However, single-family residences generate more traffic per unit than two-family residences. The minimum standards of the Unified Zoning Code should mitigate any other potential negative affects on the surrounding residential neighbors.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential". The Urban Residential category includes all densities of residential development found within the urban municipality. "TF-3" zoning is an appropriate zoning district to provide a buffer between single-family residential and nonresidential uses / zoning.

5. Impact of the proposed development on community facilities: Traffic on the existing residential streets will increase as a result of the proposed development. This site has access to an arterial street, approximately 300 feet to the north; and to an interstate highway, approximately 600 feet to the east. Other community services are in place or are available.

JESS MCNEELY Presented the staff report.

BRAD NICHOLS, 9249 WESTLAWN, WICHITA, KS 67212 I am not a big developer. I would like to build a personal residence and a duplex, and the duplex probably won't be built for 5-6 years from now. This is not going to be a downgrade to the neighborhood in no means.

MITCHELL What can you do about getting the street paved?

NICHOLS I had heard something was in the works on that, and the possibility in a couple of years it would be paved, but I don't know.

SUSAN E. SHIMKOVITZ, 6001 LINDER, WICHITA, KS 67212 I am speaking on behalf of the neighborhood. Our neighborhood as a whole does not want duplex development. We have reasons that we don't want duplex development. It is a well known fact that duplexes are generally rental properties, therefore the request for zoning change is not proposed for the benefit of the neighborhood, only for those selling the property and those developing it. In making your decision we ask you to consider the safety issues involved, four children of our own that would be living right across the street from the duplex, and there would be a lot of traffic in and out of the duplex, which would make it unsafe for the children. We are concerned about the potential for crime in our neighborhood. Because duplexes are rental properties people tend to come and go quickly thus making the perfect atmosphere for crime. This is a single-family neighborhood, and there are elderly who live there as well. This is a dirt road. The wear and tear on the road would be increased by the traffic.

ALDRICH Feeling as strongly as you do why didn't you or other residence go to the DAB meeting?

SHIMKOVITZ I cannot speak for others but my husband and I had scheduling conflicts.

GISICK Are there reasons why a petition hasn't been filed?

SHIMKOVITZ It was my understanding we have 14 days after this meeting.

SCHLEGEL That is the right. The time to file a petition is after the MAPC acts.

MARNELL Mr. Nicholas, you said your plan was to build a single-family residence and a duplex?

NICHOLS Yes.

MARNELL On which lot are you planning to use for the duplex and which for the single-family?

NICHOLS Single-family to the north, it would be directly besides QuikTrip's corporate office there.

MARNELL May I ask why you put both lots as multi-family then?

NICHOLS It just seems like it would make sense as far as the application. It is one block of property. I am trying to buy them both together.

GISIK Jess, was that a modular home when you showed the side view of the home?

MCNEELY I believe the residence to the immediate west of the application area is what the zoning code would call a residential design manufactured home.

MOTION: Approve subject to staff recommendations.

ANDERSON moved, **HENTZEN** seconded the motion, and it carried 10-0.

13. Case No.: ZON2006-02 – Voth, Harley J. & VF, LLC, c/o Faissal Abou Faissal (applicant); Kim Edgington (agent) Request Zone change from "GO" General Office to "LC" Limited Commercial on property described as;

Lots 1, 3 and 5, Block 5, J. O. Davidson 2nd Addition, Wichita, Sedgwick County, Kansas AND Lots 1 and 2, Block A, J. O. Davidson 3rd Addition, Wichita, Sedgwick County, Kansas. Generally located West of St. Paul Ave., and 75 feet south of Central.

BACKGROUND: The applicant requests a zone change for the subject property from "GO" General Office to "LC" Limited Commercial. The subject property is located at the southwest corner of Central and Saint Paul Avenue and is currently undeveloped.

The surrounding area is characterized by commercial and office uses along Central and residential uses on Saint Paul Avenue. The property to the north, which is also owned by the applicant, is zoned "LC" Limited Commercial and developed with a small office. The property to the east is zoned "LC" Limited Commercial and is developed with a drinking establishment and a small strip retail center. The properties to the west and south are zoned "LC" Limited Commercial and "TF-3" Two-family and are developed with

single-family residences. Upon approval of this rezoning request, the intention of the applicant is to demolish the office on the adjacent property to the north and develop it in conjunction with the subject property.

Several issues exist with this case. First is the importance to protect the residential neighborhood to the south from further encroachment by commercial uses, limiting the commercial uses to arterial adjacency, as recommended in the Comprehensive Plan. Second, due to the proximity to surrounding Single-family Residential uses, lighting is a concern. Third, the applicant's plan for the property raises the issue of access management. Finally, when the subject parcels were replatted in 1982, the City received eight feet of additional right-of-way for Saint Paul Avenue. Therefore, the east property line is situated eight feet to the west of the east property line of the applicant's adjoining parcels, which creates an uneven right-of-way. This could be an issue in the future, depending upon the eventual development proposal. Staff recommendation is to address these issues with a Protective Overlay, which will include the subject parcels and the applicant's adjacent property to the north of the site (see the "Recommendation" section).

Additionally, the applicant has requested a reduction in the compatibility setback requirements. This issue will need to be addressed by way of Administrative Adjustment.

CASE HISTORY: The subject property was rezoned (Z-2311) to "BB" Office (now "GO" General Office) on March 10, 1981. Previous zoning had been "A" Two-family (now "TF-3" Two-family). The subject property is platted as Lots 1 & 2, Block A, J. O. Davidson's 3rd Addition, which was recorded March 2, 1982.

ADJACENT ZONING AND LAND USE:

NORTH: LC	Office, general
SOUTH: TF-3	Single-family residences
EAST: TF-3; LC	Retail; Tavern and drinking establishment; Single-family residences
WEST: TF-3; LC	Single-family residences

PUBLIC SERVICES: The subject property has access only to Saint Paul Avenue, classified as an urban collector with traffic volume of approximately 3,200 vehicles per day. Current traffic volume on Central is approximately 19,000 vehicles per day. Central is a five-lane Principal Arterial, which is consistent with the 2030 Transportation Plan. All other normal public services are available to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Local Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the rezoning to "LC" Limited Commercial be APPROVED, subject to the following Protective Overlay:

1. The Protective Overlay shall include: Lot 1 except part dedicated for street & all of lots 3 & 5 & 1/2 vacated alley adjacent on west, Block 5, J.O. Davidson's 2nd Addition; and Lots 1 & 2, Block A, J.O. Davidson's 3rd Addition.
2. If a reduction in compatibility setbacks is approved by Administrative Adjustment:
 - a. There shall be no door or window openings in any exterior building wall adjacent to such setbacks;
 - b. No outdoor work and storage, including but not limited to trash receptacles, shall be permitted within such setbacks;
 - c. A landscape buffer shall be provided at 1.5 times the requirements of the Landscape Ordinance within such setbacks.
3. The applicant shall dedicate eight feet of right-of-way along the east property line of Lots 1, 3, & 5, Block 5, J.O. Davidson's 2nd Addition.
4. Access onto Central shall be no closer than 100 feet to the Saint Paul Avenue right-of-way line.
5. Access onto Saint Paul Avenue shall be no closer than 100 feet to the Central right-of-way line.
6. All proposed lighting shall comply with Art. IV, Sec. IV-B.4 of the Unified Zoning Code. No proposed pole lights (including base, standard, and fixtures) shall be taller than 14 feet. No pole lights shall be located within any of the building setback areas.
7. All signage shall comply with City of Wichita Sign Code, except that ground signs shall not be allowed on Saint Paul Avenue and shall be limited to a height of 25 feet on Central.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by commercial, office, and institutional uses along Central and residential uses in the neighborhood south of the subject property. Since the subject property is located along a commercial corridor, the request is consistent with the zoning, uses, and character of the neighborhood.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code, the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, and the additional recommended provisions of the Protective Overlay should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
3. The length of time the subject property has remained vacant as zoned: The subject property was zoned "BB" Office (now "GO" General Office) in 1981 and has remained vacant as zoned since that time. Given the primarily retail nature of uses in the immediate vicinity, allowing additional commercial uses should assist with development of the vacant property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Local Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated as recommended for approval.

DUNAKEY There has been some discussion since the recommendation was written. Staff recommends approval however, rather than including the additional property in the protective overlay, we would like to refine that to say that the protective overlay applies only to the subject property, and not the adjoining parcels as well.

WARNER Is what you said the protective overlay applies only to the two pieces of property in green on the map?

DUNAKEY Yes, originally it was written to include the applicant's additional property to the north.

DUNLAP I have a question about the signage on Central. If we are not applying the overlay to the Central property, why do we have a change to the signage on Central?

DUNAKEY It wouldn't apply, with the change.

MITCHELL Help me understand about the concern on page 2, about the right-of-way for St. Paul.

DUNAKEY When the subject property was replatted in 1981, the city did receive dedication of 8 feet along this property line, which, at the time, the parcels were underneath separate ownership from the property immediately adjacent to Central. So the 8 feet was not received along that property line, so that was to clarify that if we were including this in a protective overlay we would like to request at this time the 8 feet there.

MITCHELL I did not see that request.

DUNAKEY That is in the protective overlay request, however with the amended approval recommendation that would be withdrawn as well.

MITCHELL Say that again.

DUNAKEY In other words, any part of the protective overlay, as was written in the staff recommendation that includes the property to the north of the subject parcels, does not apply as requested at this time from staff.

MITCHELL Lots 1, 3, and 5, on Lot 5 does that include the red parcel?

DUNAKEY Yes.

MITCHELL So your Item 3, recommends dedication on that parcel, even though you exclude it from the protective overlay?

DUNAKEY As I mentioned, since this staff report was written, we have had additional discussion between staff and the applicant. So at this time we are requesting that to be changed to not include those parcels. So the staff recommendation would not include anything on the red property to the north, only the subject parcels for which the zoning case applies.

MITCHELL So, Item 3 in your recommendation would no longer apply, as well as the protective overlay?

DUNAKEY We would strike anything from the protective overlay that has to do with these parcels here. The applicant's intention for the development has not changed, so we would still request that no signage would be allowed on St. Paul.

DUNLAP But on that red area you can have signage on St. Paul, so you put the period after the word "Code" you have fixed it.

DUNAKEY No that would not be staff intention.

KIM EDGINGTON, 1420 Woodrow Ct., Wichita, KS 67203 As far as how the protective overlay is written, the way that I understand it essentially Items 3 & 4 would be stricken from the protective overlay. As well as on Item 1, Lot 1 except the part dedicated all the way through to the semi-colon, that would also be stricken from the protective overlay. Additionally on Item 7, I think we need to make some clarification, because as Commissioner Dunlap has pointed out, on those three lots that are currently zoned "LC" Limited Commercial we would request that the signage; that we be required to comply with would be as currently would be allowed. So that those three particular lots are not put under any greater restriction than they are currently under. Regarding Item 2c, the landscaping buffer, my client would like to request that on that portion to the west of the property, we would ask that condition be stricken. Those properties all have solid fencing along there, and ideally we had requested that be allowed to have a zero building setback along there for the building itself to provide as the screening rather than having a 10 foot stripe of property back there that is going to much likely collect trash. We agree with the 10-foot building setback back there, and we do agree with that but we would like to change and remove condition 2c.

MILLER This body does not have that authority. That would require a variance.

EDGINGTON We are not requesting that we eliminate the 10 foot buffer, we are requesting to eliminate the landscaping back there.

MILLER This body does not have that authority. John can do that administratively.

EDGINGTON Does it has to be 1.5 times?

GOLTRY It can be 1.0 times but you cannot go below that.

EDGINGTON That is what we would request that we not be required to exceed the requirements of the landscape ordinance.

MARNELL Are we talking about landscaping a place that is between the back of a building and a fence?

EDGINGTON Yes.

MARNELL John can waive that administratively?

GOLTRY If it meets the spirit and intent of the landscape ordinance which is requiring screening and buffering in the form of trees or shrubbery between commercial use adjoining residential use.

ALDRICH The property on the corner of Central and St. Paul, is that being included from the protective overlay? Is what you are saying technically, can you put a sign on that corner?

EDGINGTON Yes, on St. Paul, because of having "LC" frontage would allow signage on that portion of the property.

ALDRICH Then Item 7 says no sign shall be allowed on St. Paul, so I am confused.

EDGINGTON What we are asking is that terminology refers only to the subject property and not to property that we are not requesting any rezoning on.

MITCHELL Would the applicant agree to dedicate the 8 feet on the north lot?

EDGINGTON On the three north lots?

MITCHELL No, the north lot, which is not required.

EDGINGTON On just the northern most lot here, we would not be opposed to that, they are requesting that be dedicated along St. Paul.

MITCHELL I thought it already had been.

EDGINGTON Only on the two lots in green.

MITCHELL If you match up the lots that are green that have the 8-foot dedication by extending it to Central.

EDGINGTON We would agree to that and we had agreed to that. Because what we intend to do, and you will see me here again shortly, is that there is still a 12-foot alley on this portion right there so we will request a vacation of that alley so we will get 6 feet of that back at the alley.

WARNER I might recommend in the future that if you come to an agreement before you bring it to this Board, especially if you are last on the Agenda, to write it down and give us a copy of the changes. This is confusing and not the way to do business.

EDGINGTON Just for my clarification we are striking the first line in Item 1. Item 2c the landscape buffer in 2c, be at 1.0 times rather than 1.5 times. Strike Item 3 & Item 4. Item 7 we are amending that to say after St. Paul Avenue that we say on subject property only.

SCHLEGEL Are we clear with these changes?

MILLER We made a number of concessions based on getting landscaping and setbacks.

EDGINGTON What we had originally found was that we had a 25-foot compatibility setback along the south property line and as the developer of the property we felt that it would be in the better interest of the neighborhood if we could back the building all the way back into that lot, rather than to have the parking and the parking lot lighting and the dumpsters and the service entrances at the south end of that building. By having the building there that would be far less offensive than having the traffic and the entrances so that is what precipitated the request to reduce the compatibility setback from 25 feet to 10 feet, and that would be the standard zoning setback for the lot.

JOHNSON That 1.5 times landscape requirement was that just along the south side?

GOLTRY Only if they were reducing the compatibility setback by administrative adjustment.

EDGINGTON So it would have been the west and the south.

JOHNSON So it is west and south?

GOLTRY Wherever it is adjacent to residential, if they were going to reduce their setback from the 25-foot standard to 10 feet.

EDGINGTON The reason that we asked for it on the west, we are not asking to reduce it on the south, because of the fact there is already solid screening along there, most of those homes have trees in their backyard and we just didn't feel like that was gaining much benefit to anyone when it was in a 10-foot strip that nobody would go into or see.

WARNER I don't like this and I don't think these was done properly as far as the negotiations, I am not clear on all this.

MOTION: To defer until the next meeting and the staff report can be made clear.

WARNER moved, **MITCHELL** seconded.

HENTZEN I understand what you are talking about, I am going to be opposed to the deferral.

MARNELL I am also going to oppose that motion, this is something that may not happen to this extent but it happens often.

SUBSTITUTE MOTION:

To approve per staff comments with the changes that were discussed between staff and due to the fencing on the west reduce the landscaping to 1.0 times and 1.5 times on the south. Also an additional dedication on the "LC" Limited Commercial lot to the north and that the sign can be on the south "LC" lot on St. Paul but not on the two southern lots.

JOHNSON moved, **HENTZEN** seconded.

WARNER Does somebody have this written down?

GOLTRY I have Item 1, protective overlay shall include: Lots 1 & 2, Block A, J.O. Davidson's 3rd Addition. Item 2 will stand as is with the modification on 2c the landscape buffer shall be provided at 1.0 on the west side and 1.5 on the south side. Item 3 is stricken. Item 4 is stricken, however they will dedicate the 8 feet of right-of-way dedication on Lots 1, 3, & 5, J.O. Davidson's 2nd Addition. Item 5 stands. Item 6 stands. Item 7 will say all signage will comply with City of Wichita Sign Code, except ground signs shall not be allowed on Saint Paul Avenue, on Lots 1 & 2, Block A, J.O. Davidson's 3rd Addition.

ALDRICH Dale, would that satisfy your concerns?

MILLER Yes, we know things will change as we go through.

MOTION carries 8-2. (WARNER, MITCHELL opposed)

The Metropolitan Area Planning Department informally adjourned at 3:25 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)